

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT**

NO. 20080149874-01

TO: Department of Market Regulation
Financial Industry Regulatory Authority ("FINRA")

RE: Goldman Sachs Execution & Clearing, L.P., Respondent
Broker-Dealer
CRD No. 3466

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Goldman Sachs Execution & Clearing, L.P. (the "firm" or "GSEC") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. GSEC hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

GSEC has been a member of FINRA since March 31, 1948 and its registration remains in effect. GSEC is a registered broker-dealer and has been a member of the NYSE since 1982.

RELEVANT DISCIPLINARY HISTORY

The firm has no relevant disciplinary history.

SUMMARY

In connection with STAR#s 20080149874, 20100221433 and 20110264124, the Short Interest Team of FINRA's Department of Market Regulation ("SIT") conducted reviews of GSEC's

STAR Nos. 20080149874; 201100221433; and 20110264124 (fmh)

compliance with short interest reporting requirements for certain short interest reporting cycles described below.

FACTS AND VIOLATIVE CONDUCT

Reporting of Short Interest Positions

STAR# 20080149874

1. For 36 short interest reporting cycles between July 2006 and July 2008, the firm submitted to FINRA its short interest position reports. Based upon a sample reviewed by FINRA, these reports did not include short interest positions of approximately 325 million shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.
2. For settlement date August 15, 2008, the firm submitted to FINRA its short interest position reports. This report included three short interest positions totaling 497,287 shares when it should have reported three short interest positions totaling 134,113 shares. The Firm also failed to report 1,424 short interest positions totaling 8,449,478 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.
3. For the settlement date December 15, 2008, the firm submitted to FINRA its short interest position report. This report failed to include one short interest position totaling 78,470 shares. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 4560.¹

STAR# 20100221433

4. For settlement dates between September 15, 2004 and November 28, 2008, the firm submitted to FINRA its short interest position reports. These reports included 73 short interest positions totaling 20,318,396 shares when it should have reported 59 short interest positions totaling 16,263,841 shares. The firm also failed to report 522 short interest positions totaling 12,925,515 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.
5. For settlement dates between September 15, 2004 and November 28, 2008, the firm submitted to the NYSE its short interest position reports. These reports included 114 short interest positions totaling 20,861,031 shares when it should have reported 107 short interest positions totaling 19,940,556 shares. The firm also failed to report four short interest positions totaling 74,272 shares. The conduct described in this paragraph constitutes separate and distinct violations of Incorporated NYSE Rule 421.

¹ Effective December 15, 2008, FINRA Rule 4560 incorporated NASD Rule 3360 and NYSE Rule 421.

6. For settlement dates between December 15, 2008 and April 15, 2010, the firm submitted to FINRA its short interest position reports. These reports included 850 short interest positions totaling 170,411,220 shares when it should have reported 821 short interest positions totaling 173,975,959 shares. The firm also failed to report 3,137 short interest positions totaling 43,734,792 shares. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 4560.
7. Between at least September 2004 and April 2010, the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the NASD, NYSE and FINRA rules regarding short interest reporting. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rules 2110 and 3010, as well as FINRA Rule 2010.¹

STAR# 20110264124

8. For settlement dates between June 30, 2008 and November 28, 2008, the firm submitted to FINRA its short interest position reports. These reports included five short interest positions totaling 75,733 shares when it should have reported four short interest positions totaling 71,116 shares. The conduct described in this paragraph constitutes separate and distinct violations of NASD Rule 3360.
9. For settlement dates between June 30, 2008 and November 28, 2008, the firm submitted to the NYSE its short interest position reports. These reports included three short interest positions totaling 80,868 shares when it should have reported three short interest positions totaling 80,772 shares. The conduct described in this paragraph constitutes separate and distinct violations of Incorporated NYSE Rule 421.
10. For settlement dates between September 15, 2009 and December 30, 2010, the firm submitted to FINRA its short interest position reports. These reports included 166 short interest positions totaling 21,911,835 shares when it should have reported 166 short interest positions totaling 21,176,961 shares. The conduct described in this paragraph constitutes separate and distinct violations of FINRA Rule 4560.

B. GSEC also consents to the imposition of the following sanctions:

- a censure;
- a fine of \$250,000 - (\$175,000 for the short interest reporting violations and \$75,000 for the supervision violations).

The firm agrees to pay the monetary sanction(s) upon notice that this AWC has been accepted and that such payment(s) are due and payable. It has submitted an Election of

¹ On December 15, 2008, FINRA Rule 2010 replaced NASD Rule 2110.

Payment form showing the method by which it proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction(s) imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

The firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the firm specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

The firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
 - 1. this AWC will become part of the firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record;
 - 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 - 4. The firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of the firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that it has agreed to the AWC's provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

12/3/13
Date

Respondent
Goldman Sachs Execution & Clearing, L.P.

By:

Name: Jonathan E Breckenridge

Title: Chief Compliance Officer

Reviewed by:

Beth A. Stekler

Beth A. Stekler, Esq.
Counsel for Respondent
WilmerHale
1875 Pennsylvania Avenue N.W.
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(202) 663-6588

Accepted by FINRA:

1-2-14
Date

Signed on behalf of the
Director of ODA, by delegated authority

David E. Rosenstein

David E. Rosenstein
Senior Vice President
Department of Market Regulation